

July 29, 2005

Mr. Doug Horswill
Senior Vice President
Environment & Corporate Affairs
Teck Cominco Ltd.
600 – Burrard Street
Vancouver, B.C.
Canada V6C 3L9

RE: *Pakootas, et al. v. Teck Cominco Ltd. Settlement Discussions*

Dear Doug:

This is the letter the 3 Sovereigns promised to send you at the July 11, 2005 meeting between representatives from Teck Cominco, Ltd. ("Teck"), the State of Washington, the Colville Confederated Tribes, and the Spokane Tribe of Indians (collectively the "3 Sovereigns"). This letter sets out the 3 Sovereigns' alternative proposal for study, cleanup, and restoration of the Upper Columbia River Ecosystem (the "Site") that, based on our discussions at our last meeting, we believe incorporates the primary needs of all the involved parties. As we requested at the July 11th meeting, we respectfully request that Teck provide a detailed written response to this letter by August 17, 2005.

At the July 11th meeting, Teck set out its proposal for its participation in the investigation and remediation of the Site. As we understand the proposal, it has one track for human health risks, and one track for ecological risks and natural resource damages. For the human health track, Teck proposes to enter into a Memorandum of Understanding ("MOU") or similar contract with the Environmental Protection Agency ("EPA"), under which Teck will pay EPA a lump sum for EPA to do the human health risk work. In advance of entering into the MOU, Teck will agree with EPA on the scope of the studies that would be done. For the ecological risk/natural resource damages ("eco-risk") track, Teck proposes to enter into a MOU or similar contract with the Natural Resource Damage Trustee Council, under which Teck will fund studies leading towards an Ecological Risk Assessment ("ERA"), Ecological Services Analysis ("ESA") and Restoration Options Analysis ("ROA"). Teck's proposed funding will be on an annual basis, and Teck will have the option each year to cease funding the requisite studies. Teck wants EPA's Unilateral Administrative Order withdrawn before it funds the studies, and eventually wants to have Judge MacDonald's order on the application of the Comprehensive, Environmental, Response, Compensation, and Liability Act ("CERCLA") to Teck vacated. Finally, Teck wants the

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Government of Canada to have a role in the process, such as having Canada as a voting member of a dispute resolution panel.

The proposal the 3 Sovereigns put forward at the July 11th meeting represents what they believe is a significant compromise. The 3 Sovereigns spent considerable time working to come up with a proposal that is outside the realm of what is normally done at sites like these and accommodates Teck's stated needs (a two-track process, the use of bioavailability, and a whole lake approach), while still fulfilling the 3 Sovereigns' regulatory obligations to their citizens and the environment. the 3 Sovereigns' July 11th proposal sets out an integrated two-track process to implement what we understand to be Teck's commitment to both investigate and remediate/restore the Site.

The integrated 3 Sovereign proposal, as outlined in this letter, is intended to be cost-effective, focused, and results oriented. The proposal is designed to facilitate Teck's commitment to investigate the Site through the development of integrated Records of Decision ("RODs") for both the human health track and the eco-risk track. For Teck's convenience, we have attached a schematic that visually depicts the 3 Sovereigns' proposal set forth in this letter.

I. Two-Track Process

A. Track One: Human Health:

- The work necessary to produce an NCP-compliant Human Health Remedial Investigation/Feasibility Study ("RI/FS") and ROD would be funded by Teck under a CERCLA Administrative Order on Consent ("AOC") with EPA Region X.
- The 3 Sovereigns would participate as CERCLA Support Agencies.
- The results would be (a) the integration of relevant eco-risk track data into a Human Health interim/conditional ROD; and (b) the implementation of interim response and/or removal actions that may be required by the Human Health interim/conditional ROD; (c) the integration of relevant eco-risk track data into the development of a Final Comprehensive ROD.

B. Track Two: Eco-Risk:

- The work necessary to assess ecological risks and natural resource damages at the Site would be funded by Teck pursuant to a Consent Decree between Teck and the 3 Sovereigns.
- An Integrated Cooperative Assessment Team that includes EPA, the Colville tribes, the Spokane Tribe, the State, United States Department of Interior ("DOI"), and Teck would assess the studies and work done and provide technical input for additional studies and work.
- The product of the eco-risk work will be the establishment of natural resource injuries and preferred alternatives for restoration and remediation, together with a long-term monitoring plan to evaluate the efficacy of chosen alternatives.

- The information generated in this eco-risk process will be integrated with the information in the interim/conditional Human Health RI/FS to produce a final comprehensive ROD for the Site.

II. 3 Sovereign "Must Haves" List

The 3 Sovereigns feel there are certain elements of their proposal that are essential to a settlement with Teck. These "must haves" are as follows:

- *Teck Must Enter into Binding Legal Agreements for Both Tracks -- an AOC and/or CD for the Human Health Track and a CD for the Eco-Risk Track, Under Which Teck Funds the Work Required.*
- *All Work Performed Under the Eco-Risk Track and the Human Health Track, and all Documents Generated Under Those Two Tracks, Must be Consistent With the NCP.*
- *Teck Must Waive its Defenses to PRP Status under CERCLA for Purposes of Entering the AOC With EPA.*
- *Teck Must Waive its Defenses to NRD Liability for Purposes of Entering into the CD for the Eco-Risk Track.*
- *Teck Must Enter Into a Tolling Agreement with the 3 Sovereigns That Provides the Statute of Limitations For Natural Resource Damage Claims Will Be Tolloed until a mutually-agreed upon date.*
- *Teck Must Agree to Pay the Past and Future Response and Oversight Costs the 3 Sovereigns Incur in Relation to the AOC and CD.*
- *All Aspects of the Litigation Will Remain "As-Is" (meaning EPA's UAO remains in place, the Ninth Circuit Litigation continues, and Judge MacDonald's district court opinion remains in place) Until Such Time as All Parties Agree Otherwise.*

III. Request for Response By Teck Cominco

Although the 3 Sovereigns heard and appreciate the concerns Teck Cominco raised at our July 11th meeting, they do not feel that they can agree to consider settling the pending litigation in the absence of a clear and enforceable commitment on the part of Teck, the scope of which includes the "must-have" items identified above.

The 3 Sovereigns appreciate Teck's participation in the negotiation process to date. In the interest of moving this process forward, we respectfully request that Teck provide a detailed written response to the following questions:

1. Whether Teck will agree to the items identified above in italics as "Must Haves";
2. Whether Teck will agree to move forward expeditiously in good faith negotiations on the terms of an Agreement in Principle that lays out the framework for moving forward on this two track approach as soon as possible following the meeting of the principles on August 24, 2005; and

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3. Whether Teck would recommit to the Shared Principles set forth in the attached document.

If Teck cannot agree to any of these specific items, we request that Teck provide a detailed written explanation as to the issues with which it disagrees.

Again, we thank Teck for its continued participation. We look forward to working with Teck on these important issues and receiving its written response on or before August 17, 2005.

Sincerely,



Donald R. Michel
Natural Resources Committee Chair
Colville Confederated Tribes

Jay J. Manning
Director, Department of Ecology
State of Washington

Gerald Nicodemus
Councilman
Spokane Tribe of Indians

cc: Thomas A. Campbell, Pillsbury Winthrop, Shaw, Pittman
David W. Godlewski, Teck Cominco American, Inc.

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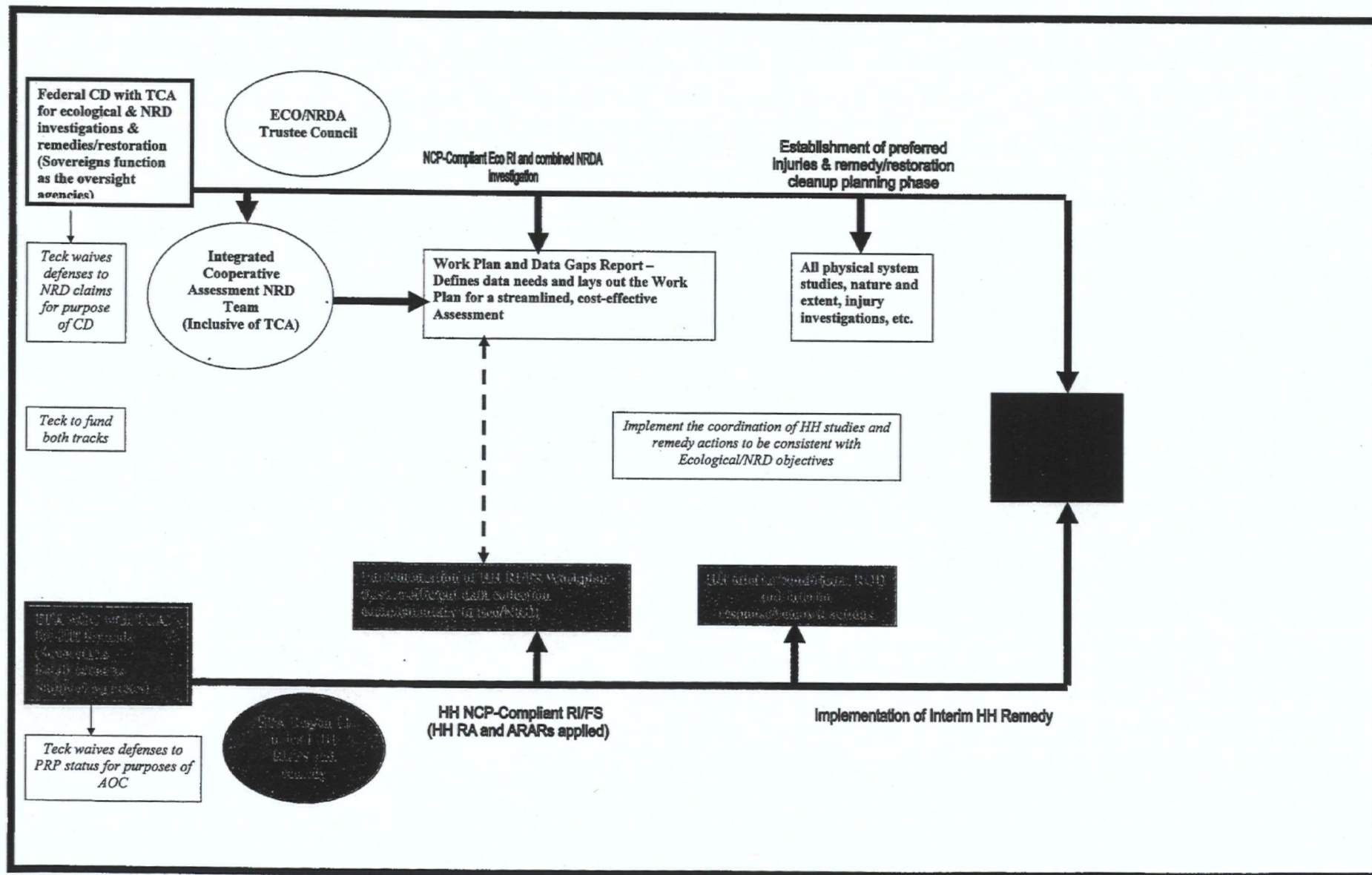
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David W. Godlewski, Teck Cominco American, Inc.



Shared Principles (May 2005)

We [Teck Cominco and the 3 Sovereigns] agree to work together collaboratively in accordance with the following principles.

- 1. Shared commitment to restore the Upper Columbia Ecosystem (UCE) (Grand Coulee Dam to Border) to support safe traditional cultural uses of natural resources by the Spokanes, Colvilles, as well as recreationalists, and other citizenry of the state of Washington..**
- 2. A commitment to understand contamination (including where, how, mechanisms of fate and transport) and the related risks to health and the environment. Develop understanding of and identify options for restoration, remediation and risk management. This analysis shall be integrated.**
- 3. We understand that the reservoir is a highly-managed waterbody, and future risk management decisions may be influenced by reservoir management practices.**
- 4. Studies need to be accomplished in accordance with established scientific principles and practices.**
 - 4.1. The practices used will be consistent with and meet or exceed established protocols for environmental studies conducted in the United States.**
 - 4.2. We agree to collaboratively develop and seek agreement on conceptual site models used to facilitate study planning and performance.**
 - 4.3. The parties agree to jointly develop a document that addresses existing information, conceptual site models, data gaps, and which will provide a general framework for development of a scope of work to achieve the elements set forth in No. 2 above.**
 - 4.4. The parties agree to work jointly in the selection and oversight of studies undertaken pursuant to these Shared Principles. This applies to all phases of typical scientific investigations such as scope definition, work plans, contractor selection, data reviews and report preparation.**



**Rob McKenna
ATTORNEY GENERAL OF WASHINGTON**

FAX COVER SHEET

Date: July 29, 2005

Time: 4:16 PM

Please deliver the following 8 page(s)

**TO: Doug Horswill
Thomas A. Campbell
David W. Godlewski**

Fax Numbers: (604) 687-6100
(713) 425-7373
(509) 459-4400

COMMENTS:

Attached is the letter the 3 Sovereigns promised at the June 11, 2005 meeting. A copy will also be sent by mail.

FROM: Alex Smith

Fax Number: (360) 586-6760
Voice Number: (360) 586-6753

If there is a problem receiving this fax, please call Alex Smith at (360) 586-6753.

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